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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/564,782

01/17/2006

Adrian R. Pepper

36-1955

3629

23117

7590

03/24/2008

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EXAMINER

TIEU, BINH KIEN

ART UNIT

PAPER NUMBER

2614

MAIL DATE

DELIVERY MODE

03/24/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/564,782	PEPPER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	BINH K. TIEU	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22 and 23 is/are allowed.
- 6) ☐ Claim(s) 1,4-21,24 and 25 is/are rejected.
- 7) ☒ Claim(s) 2 and 3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/15/06&amp;3/6/06</u>  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Preliminary Amendment***

1. The Applicants' preliminary amendment filed on 01/17/2006 was entered. As the results, claims 26-27 were cancelled as indicated. Claims 1-25 are pending at this point.

### **Specification**

2. Section headings are missing. The section heading should be following:
  - (a) TITLE OF THE INVENTION.
  - (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
  - (c) BACKGROUND OF THE INVENTION.
  - (d) BRIEF SUMMARY OF THE INVENTION.
  - (e) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
  - (f) DETAILED DESCRIPTION OF THE INVENTION.
  - (g) CLAIM OR CLAIMS
  - (h) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 4-21 and 24-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Chong (US Pat. #: 6,417,672).

***Regarding claim 1***, Chong teaches a device for testing a data carrying service operating over a telecommunications line, the device comprising:

a plurality of test circuits (see figure 3A, test set 200 comprising a plurality of DMM, TDR, Line Impairment test circuits 322, 324, 326 and test circuit 432 of modem module 330), each test circuit arranged to determine and test one or more characteristics of a data carrying service and providing means to emulate a termination of said telecommunication line (i.e., in figure 7, test sets 200a and 200b each generates the required tones and properly terminates the far end of wire pair 720, col.16, lines 10-21 and col.14, line 5 through col.15, line 11);

processing means operable to control the operation of each of said plurality of test circuits (col.10, lines 25-34); and

connection means arranged to connect said telecommunication line to one or more of said plurality of test circuits (see figures 9A through 9H with different test setup connected to wire pairs),

wherein said test circuits are arranged to enable said data carrying service to remain connected to said connection means during all of the testing operations provided by said one or more of the test circuits (col.19, line 19 through col.20, line 16).

Regarding claims 4-5, see TDR test results in figures 6A-6C, col.14, line 55 through col.16, line 7.

Regarding claim 6, see loop-back test in col.14, line 65 through col.15, line 11 and col.18, line 58 through col.19, line 3.

Regarding claim 7, see col.16, line 15-20.

Regarding claims 8-9, note test setup in figures 9A-9H, and col.18, lines 28-38.

Regarding claim 10, note modem module 330 in figures 3A and 4A, col. 11, line 60 through col.13, line 13.

Regarding claims 11-12, note the line terminating unit (LTU) or a network terminating unit (NTU) in the test setup in figure 9C, col.19, lines 31-42.

Regarding claim 13, Chong teaches a device for identifying and testing data carrying services operating over a telecommunications line, the device comprising:

a port for connection to the line so as to send and receive data (see TDR tests, col.114, line 65 through col.15, line 11; and see test setup for loop back tests shown in figure 9E, col.19, lines 54-63);

a processing unit (see processor 310 in figure 34 or processor 410 in figure 4A); and

test circuit means capable of identifying and testing in co-operation with the processing unit a plurality of different data carrying services using the data sent and received via said input port (Also see Transmission Line Impairment Tests, Insertion Loss, Signal-to-Noise Ratio, etc. in columns 16 through column 19 and variety of test setup in col.19, line 18 through col.20, line 16).

Regarding claim 14, note col.16, lines 38-48 and col.17, lines 40-56.

Regarding claims 15-17, note figure 9G, col.18, lines 29-38.

Regarding claim 18, note col.20, lines 3-5.

***Regarding claim 19***, a device for testing a data carrying service operating over a telecommunications line between a first and second terminal, the device comprising:

a first port for connecting to the first terminal on the line so as to send and receive data from the first terminal (see TDR tests, col.114, line 65 through col.15, line 11);

a second port for connecting to the second terminal on the line so as to send and receive data from the second terminal (see test setup for loop back tests shown in figure 9E, col.19, lines 54-63);

a processing unit (see processor 310 in figure 34 or processor 410 in figure 4A); and

test circuit means capable of testing in co-operation with the processing unit at least one data carrying service using the data sent and received via said ports, the test circuit means comprising two chip sets interconnected such that data received via one of said ports may be output substantially unchanged via the other of said ports (Also see Transmission Line Impairment Tests, Insertion Loss, Signal-to-Noise Ratio, etc. in columns 16 through column 19 and variety of test setup in col.19, line 18 through col.20, line 16).

Regarding claim 20, note col.14, line 65 through col.15, line 11.

Regarding claim 21, note col.20, lines 3-5.

Regarding claims 24-25, the limitations of the claims are rejected with the same reasons set forth in the rejections of claims 1 and 5 above.

*Allowable Subject Matter*

5. Claims 22-23 are allowed.
6. Claims 2-3 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following references are related to the Chong reference cited above.

- a/. Pub. No.: US 2005/0249332
- b/. Pub. No.: US 2003/0048756
- c/. Pat. No.: US 6,891,803 and
- d/. Pat. No.: US 6,177,801

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh K. Tieu whose telephone number is (571) 272-7510 and E-mail address: [BINH.TIEU@USPTO.GOV](mailto:BINH.TIEU@USPTO.GOV).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Curtis Kuntz, can be reached on (571) 272-7499 and **IF PAPER HAS BEEN**

Art Unit: 2614

**MISSED FROM THIS OFFICIAL ACTION PACKAGE, PLEASE CALL CUSTOMER SERVICE FOR THE SUBSTITUTIONS OR COPIES.**

Any response to this action should be mailed to:

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In formation regarding the status of an application may be obtained from the Patent Application Information Retrieval (FAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the FAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**/BINH K. TIEU/**

Primary Examiner

Technology Division 2614

Date: March 2008